

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of	)	
	)	
WHITE et al.	)	Art Unit: 1657
	)	
Application No. 10/519,731	)	Examiner: Srivastava, Kailash C.
	)	
Filing Date: July 5, 2005	)	Confirmation No. 5125
	)	
For: INHIBITORS OF FTSZ AND USES	)	
THEREOF	)	

**RESPONSE TO RESTRICTION REQUIREMENT**

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

NEEDLE & ROSENBERG, P.C.  
Customer Number 23859

February 5, 2008

Sir:

This paper is in Response to the Restriction Requirement mailed October 24, 2007. In the Restriction Requirement, the Examiner set a one-month period in which to reply, *i.e.*, by November 24, 2007. Enclosed herewith is a Request for a Three-Month Extension of Time and appropriate fee, which extends the due date to February 24, 2008. Accordingly, this paper is timely.

In the Restriction Requirement, the Examiner restricted the application and required an election of one of following three groups under 35 U.S.C. §§ 121 and 372.

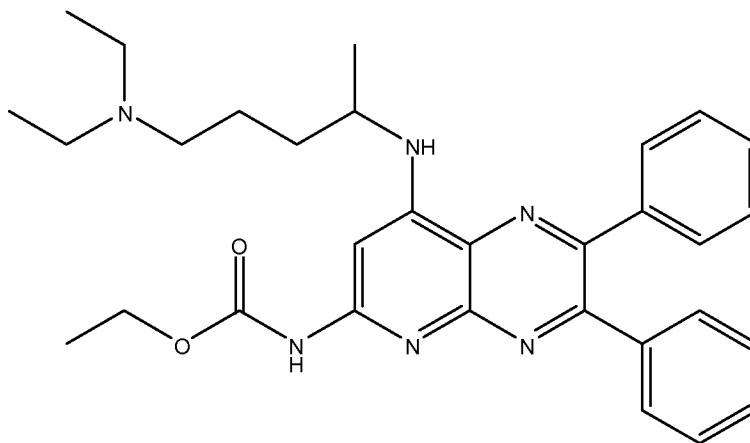
- Group I: Claims 1-20 and 36 drawn to a method of inhibiting bacterial growth;
- Group II: Claim 21-26, drawn to a method of killing a bacterium, wherein said bacterium is either a Gram positive or a Gram negative bacterium;
- Group III: Claims 27-35, drawn to a method of inhibiting bacterial FtsZ; and
- Group IV: Claims 37-42, drawn to a method of treating bacterial infection in an individual.

As required in response to this Action, **Applicant elects Group III, Claims 27-35**, without traverse.

The Examiner also identified numerous species categories (*i.e.*, A through O). Since Applicant elected Group III, the Examiner required an election of species in each of the following categories:

- I. Only one chemical structure with substitutions to said chemical structure as listed in Claim 27;
- J. Only one Group of bacteria among Gram positive or Gram negative bacterium listed in Claims 28 and 30;
- K. Only one bacterial genus, species, subspecies, strain, and sub-strain as listed in Claim 29 or 31; and
- L. Only one permeability enhancer among those listed in Claims 32-35; and

For species category I, Applicant elects the species [8,(4-diethylamino-1-methyl-butylamino)-2,3-diphenyl-pyrido[2,3-b]pyrazine-6-yl]-carbamic acid ethyl ester (*i.e.*, SRI-3072). In claim 27, this corresponds to  $X_1 = N$ ;  $X_2 = CH$ ;  $S_1 = C_2H_5$ ;  $S_2 = NCH(CH_3)(CH_2)_3N(C_2H_5)_2$ ;  $S_3$  and  $S_4$  forming a heteroaryl with 2 ring substituents. The completed structure is shown below.



Claims 27-35 read on this elected species.

For species category J, Applicant elects the Gram positive bacteria. Claims 27-29 and 32-35 read on this elected species.

For species category K, Applicant elects the bacterium *M. tuberculosis*. Claims 27-29 and 32-35 read on this elected species.

For species category L, Applicant elects the species polymyxin B. Claims 27-35 read on this elected species.

Since Applicant elected Group III, species elections for Groups I, II, and IV are not believed to be needed. Applicant notes, however, that the same species elections above

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correspond to the elections requested for Groups I, II, and IV. Thus, for the sake of completeness, Applicant makes the same species elections for these Groups as above. These species elections are made without traverse.

As final note, page 2 of the current Office Action alleged that the title page of the Preliminary Amendment filed on December 28, 2004, did not contain the correct application number. Of course, no application number was available at that time since that Preliminary Amendment was being filed concurrently with the application.

Payment in the amount of \$1050.00 is enclosed for the Three-Month Extension of Time under 37 C.F.R. § 1.17(a)(3). No additional fees are believed to be due; however, the Commissioner is hereby authorized to charge any fees which may be required or credit any overpayment to Deposit Account No. 14-0629.

Respectfully submitted,  
NEEDLE & ROSENBERG, P.C.

/Christopher L. Curfman/

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**CERTIFICATE OF EFS-WEB TRANSMISSION UNDER 37 C.F.R. § 1.8**

I hereby certify that this correspondence – including any items indicated as attached, enclosed, or included – is being transmitted by EFS-WEB on the date indicated below.

/Christopher L. Curfman/

February 5, 2008

\_\_\_\_\_  
Christopher L. Curfman

\_\_\_\_\_  
Date